



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MB Docket No. 22-239; FCC 22-89; FR ID 116204]

Update to Publication for Television Broadcast Station DMA Determinations for Cable and Satellite Carriage

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission amends its rules to reference a new publication for use in determining a television station's designated market area (DMA) for satellite and cable carriage under the Commission's regulations. Under the Commission's current rules, television broadcasters, cable operators, and satellite carriers determine DMA for carriage election and other purposes by reference to the Nielsen Station Index Directory (Annual Station Index) in combination with the United States Television Household Estimates (Household Estimates), or a successor publication. Nielsen Media Research division will no longer publish the Annual Station Index and has replaced it with a monthly Local TV Station Information Report (Local TV Report), which is now the only publication necessary to determine a station's DMA. The Household Estimates publication is no longer in use. The *Report and Order* therefore revises the rules to identify the Local TV Report as that successor publication. The *Report and Order* also specifies the Local TV Report published in the October two years prior to each triennial carriage election as the successor publication to be used to determine a station's DMA, as well as for determining the local market of broadcast television stations more generally.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Contact Kenneth Lewis, Kenneth.lewis@fcc.gov, of the Media Bureau, Policy Division, (202) 418-2622.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, MB Docket No. 22-239, FCC 22-89, adopted on November 17, 2022, and released on November 18, 2022. The full text of this document is available for download at <https://docs.fcc.gov/public/attachments/FCC-22-89A1.pdf>. To request materials in accessible formats (braille, large print, computer diskettes, or audio recordings), please send an e-mail to FCC504@fcc.gov or call the Consumer and Government Affairs Bureau at (202) 418-0530 (VOICE), (202) 418-0432 (TTY).

Synopsis

On July 14, 2022, the Commission adopted a notice of proposed rulemaking (NPRM), seeking comment on referencing Nielsen's Local TV Station Information Report (Local TV Report) for use in determining a television station's designated market area (DMA) for satellite and cable carriage under the Commission's regulations. Pursuant to the Act, and the implementing rules adopted by the Commission, commercial television broadcast stations are entitled to assert mandatory carriage rights on cable systems located within their market. Similarly, section 338 of the Act requires satellite carriers to carry on request all local television broadcast stations' signals in local markets in which the satellite carrier carries at least one local television broadcast signal pursuant to the statutory copyright license. A station's market for cable and satellite carriage is its DMA, as defined by The Nielsen Company's Annual Station Index and Household Estimates "or any successor publications." The implementing regulations also specify which edition of the Annual Station Index is to be used for each election cycle (specifically, the one published the year prior to the election).

The Nielsen Company has notified the Commission that its Nielsen Media Research division will no longer publish the annual Nielsen Station Index Directory (Annual Station Index), which has been used in combination with the Nielsen Station Index and United States Television Household Estimates (Household Estimates), to determine a station's DMA for local television stations seeking carriage. Nielsen has stated that the information contained in the

Annual Station Index is now in the Local TV Report, which is published monthly. Thus, the Local TV Report is now the only publication necessary to determine a station's DMA. The Household Estimates publication is no longer in use.

Commenters unanimously supported amending our rules to eliminate the references to the Annual Station Index and Household Estimates and specify the Local TV Report as the successor publication to be used to determine a station's DMA. Thus, the references to the Annual Station Index and Household Estimates will be deleted and replaced with the Local TV Report in pertinent parts.

Commenters also unanimously requested that the Commission amend the rule to specifically reference the October Local TV Report published two years prior to each triennial carriage election, which is consistent with the Annual Station Index, which relied upon information gathered in the October two years prior to each triennial carriage election. Based upon the record support for this change, we amend the rule to specify that DMA determinations will be based on the October Local TV Report published two years prior to the triennial election.

This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4). The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is "non-major" under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will

also send a copy of the *Report and Order* to Congress and the Government Accountability office, pursuant to 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 76

Carriage of Television Broadcast Signals

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch,

Secretary,

Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 76 as follows:

PART 76-MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 302a, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 338, 339, 340, 341, 503, 521, 522, 531, 532, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Section 76.55 is amended by revising paragraphs (e)(2) introductory text and (e)(2)(i) to read as follows:

§ 76.55 Definitions applicable to the must-carry rules.

* * * * *

(e) * * *

(2) A commercial broadcast station's market, unless amended pursuant to § 76.59, shall be defined as its Designated Market Area (DMA) as determined by Nielsen Media Research and published in its Nielsen Local TV Station Information Report or any successor publications.

(i) The applicable DMA list for the 2023 election pursuant to § 76.64(f) will be the DMA assignments specified in the Nielsen October 2021 Local TV Station Information Report, and so forth using the publications for the October two years prior to each triennial election pursuant to § 76.64(f).

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3. Section 76.66 is amended by revising paragraphs (e)(2) and (3) to read as follows:

§ 76.66 Satellite broadcast signal carriage.

* * * * *

(e) * * *

(2) A designated market area is the market area, as determined by Nielsen Media Research and published in the 1999-2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates, the October 2021 Nielsen Local TV Station Information Report, or any successor publication. In the case of areas outside of any designated market area, any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska.

(3) A satellite carrier shall use the October 2021 Nielsen Local TV Station Information for the retransmission consent-mandatory carriage election cycle commencing on January 1, 2024 and ending on December 31, 2027. The October 2024 Nielsen Local TV Station Information Report shall be used for the retransmission consent-mandatory carriage election cycle commencing January 1, 2028, and ending December 31, 2030, and so forth using the publications for the October two years prior to each triennial election pursuant to this section. Provided, however, that a county deleted from a market by Nielsen need not be subtracted from a market in which a satellite carrier provides local-into-local service, if that county is assigned to that market in the 1999-2000 Nielsen Station Index Directory or any subsequent issue of that publication, or the Local TV Station Information Report commencing with October 2021, and every three years thereafter (*i.e.*, October 2024, October 2027, etc.). A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in connection with each subscriber in an area in the State of Alaska that is outside of a designated market, as described in paragraph (e)(2) of this section.

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